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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,102	11/09/1999	FREDERICK HERZ		7526

23628 7590 02/23/2006

WOLF GREENFIELD & SACKS, PC
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600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

EXAMINER

MA, JOHNNY

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. The reply filed on 12/8/2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Newly amended claims shift the invention from a system and method for allowing a user to provide feedback, collecting the feedback data, and using a switch to transmit new programs based on the feedback to, monitoring which data is accessed by a user and updating user profiles, which introduces an election by original presentation. Since all of the claims are directed to the new subject matter, there are no claims available for prosecution.

. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Election/Restrictions

2. Newly submitted claims 116-124 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Independent claims 116-124 are directed to monitoring which data is accessed by a user and updating user profiles.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 116-124 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm



**CHRIS KELLEY
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